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SJIF IMPACT FACTOR (2021: 5.705) (2022: 5.705) (2023: 6.584)

OCLC - 1121105677











Publisher: Oscar Publishing Services



Website: https://theusajournals. com/index.php/ijlc

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ISSUES OF GUARANTEEING CHILDREN'S RIGHTS

Submission Date: February 06, 2023, Accepted Date: February 11, 2023,

Published Date: February 16, 2023

Crossref doi: https://doi.org/10.37547/ijlc/Volumeo3Issue02-03

B.Dj. Matmuratov

Ph.D. Assoc. Professor. Deputy Chairman Of The Committee On Development Of The Aral Bay Region And Ecology Of The Senate Of The Oliy Majlis Of The Republic Of Uzbekistan

ABSTRACT

This article describes the issues of guaranteeing children's rights. In addition, this article focuses on the concepts of "child" and "minor" and analyzes their views on ensuring their rights.

KEYWORDS

Child, adulthood, youth, minor, rights, guarantee, provision, physical, lack of control, offense.

INTRODUCTION

It is known that ensuring the guarantees of children's rights in Uzbekistan has risen to the level of state policy and is one of the main and constant directions of the reforms implemented in our country.

In fact, if we touch on the concept of "child", there are several approaches in this regard, the international legal approach: in Article 1 of the UN Convention on the Rights of the Child (1989) "a child is every person under the age of 18" that, as well as in the Convention "On Urgent Measures for the Prohibition and Elimination of Severe Forms of Child Labor" (Geneva, 1999) (2-m) 2 .

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¹«Конвенция о правах ребенка» Нью-Йорк, 20 ноября 1989 г. Принята Резолюцией № 44/25 Генеральной Ассамблеи Организации Объединенных Наций.

² Сборник международных договоров Республики Узбекистан, 2009 г., № 2-3.

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In the Protocol (2000, New York) on the Prevention, Suppression and Punishment of Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime (3rd paragraph) ³, every person under the age of 18 it is said that man is a child.

At this point, D.R. Karimova commented that the general definition of "child" proposed by the UN is unable to record all the specific aspects of the issue of the child and its rights, the specific features of the concept of a child, and the difference between a newborn person and an 18-year-old person, as well as taking into account that the rights of the fetus in the mother's womb are also different, he drew attention to the fact that there is no different approach to the protection of their various rights and interests and referred to the following scheme: Fetus - Infancy -Adolescence - Adolescence - Becoming a socially capable person⁴.

We also agree with these thoughts. However, the fact that the term "minor" is not given in the generally recognized norms of international law is also a cause of controversy.

Historical approach: in "Avesta" the period of adolescence included the period from the time a child appears in the mother's womb to the age of 15. After reaching the age of 15, it is necessary for him to tie a

special girdle signifying adulthood and wear sudra clothing (Vandidot, 18-fragdad, paragraph 54) 5.

15-year-olds are taught the laws of Zoroastrianism, moral and virtuous thoughts, noble words, noble deeds⁶. In the teachings of Islam, most scholars, including the fetus in childhood, expressed the opinion that "childhood includes the period up to 14 or 15 years of age"

Scientific approach: D.R.Karimova, who conducted research on the genesis, evolution and prospects of children's rights in Uzbekistan, says, "A child is a human race from the fetus to the age of 18^{18} .

We support the fact that D.R.Karimova added the fetus to the child, because even during the period of the fetus, the child has certain rights and freedoms, and the task of ensuring it is entrusted to the responsible state bodies.

In the "explanatory dictionary of the Uzbek language", although "minor" is not defined separately, in relation to the concept of "coming of age": "coming of age (adulthood). To reach a mature (mature) level in general, young and otherwise. To reach maturity and perfection in a certain work, activity.

Given the definition of "to sprout and grow", it is selfevident that the concept of "juvenile" is the opposite of the concept of "coming of age", i.e. the antonym of

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³ Сборник международных договоров Республики Узбекистан, 2008 г., № 3-4.

⁴Каримова Д.Р. Ўзбекистон ҳудудида бола ҳуқуқлари генезиси, эволюцияси ва унинг истикболлари. Юридик фанлари доктори илмий даражасини олиш үчүн ёзилган диссертация. - Т.: 2017. - Б. 23-24.

⁵ Авесто // Тарихий -адабий ёдгорлик / Асқар Маҳкам таржимаси. – Т.: Шарқ, 2001. 382 б. – Б. 164.

⁶Тўйчиев Ҳ. Шахс ҳуқуқий онги ва ҳуқуқий таълим. – Т.: Мухаррир, 2010. 128 б. – Б. 50.

⁷ Legislative History of the Convention on the Rights of the Child (1978-1989), United National Center of Human Rights, Human Rights. 1995, ser.1, Article.1. - P.11.

⁸ Каримова Д.Р. Ўзбекистон худудида бола хуқуқлари генезиси, эволюцияси ва унинг истикболлари. Юридик фанлари доктори илмий даражасини олиш учун ёзилган диссертация. - Т.: 2017. - Б. 31.

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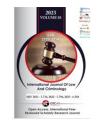












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"to grow up to a minor, young and otherwise mature level, to maturity or maturity in work or a certain activity" means "not achieved". In this case, we need to clarify the difference between a minor and a minor, because a minor and a minor are different from each other from a legal and medical point of view⁹.

Puberty is a medical term that defines puberty as a child's physical, sexual and mental maturity. Medically, puberty is defined as 15-18 years for girls and 15-20 years for boys.

Legal approach: determines the degree to which a person can enter into legal relations. For example, we can see that the age of criminal responsibility is defined as 13, 14, 16 and 18 in the JK, the age of administrative responsibility is 16 years, and the age of employment relations is 15 and 16 years. Regarding the concept of the age of majority in the "Legal Encyclopaedia": "It is the age established by the law, and a citizen is considered to have full legal capacity upon reaching this age. We can see that 18 years is defined as the age of majority in the Republic of Uzbekistan.

National legal approach: in the laws of the Republic of Uzbekistan, the concepts of child (children) and minor (minors) have the same meaning. For example, in the article of the Law of the Republic of Uzbekistan "On Guarantees of Children's Rights" (2008), the concept of child (children) is defined as "a person (persons) up to eighteen years of age (adult)" ¹⁰. Also, in the Law of the Republic of Uzbekistan "On Prevention of Misconduct and Offenses Among Minors" (2010), "a minor is defined as a person under eighteen years of age", and in the Law of the Republic of Uzbekistan "On Protection of Children from Information Harmful to Their Health" (2017) "children are persons under the age of eighteen (minors)" 11. The above international and national laws define children and minors as persons under 18 years of age.

Although the concept of "minor" is not defined in the Republic of Uzbekistan on Criminal, Administrative Responsibility, Criminal-Executive Codes and other normative legal documents aimed at protecting the rights of minors, the words "minor" are used and we can see that they mainly emphasize 14-18-year-olds ¹².

Also, Article 3 of the Law of the Republic of Uzbekistan "On State Policy Regarding Youth" (2016) defines that "Youth (young citizens) are persons who have reached the age of fourteen and do not exceed the age of thirty"¹³.

It can be seen that persons who have reached the age of 14 and under the age of 18 are also included in the youth group. Here the question arises, are persons older than 14 years and under 18 years of age minors? Or children? Or young people? We can see that under the age of 18 this is a child (children) in international law.

It should be noted that the Republic of Uzbekistan ratified the Convention on the Rights of the Child on

⁹ Ўзбек тилининг изоҳли луғати / 80 000 дан ортиқ сўз ва сўз бирикмаси / www.ziyouz.com / кутубхонаси. – Б 469.

¹⁰Ўзбекистон Республикасининг «Бола хуқуқлари кафолатлари тўғрисида»ги 2008 йил 7 январдаги қонуни // http://lex.uz.

¹¹Ўзбекистон Республикасининг «Болаларни уларнинг соғлиғига зарар етказувчи ахборотдан химоя қилиш

тўғрисида»ги 2017 йил 8 сентябрдаги http://lex.uz.

¹²S.S.Niyozova. Reasons for Suicide and the Issue of Responsibility. International Journal of Pharmaceutical Research | Dec 2020 | Vol 12 | Supplementary Issue 3 p. 530. ¹³Ўзбекистон Республикасининг «Ёшларга оид давлат сиёсати тўгрисида» ги 2016 йил 14 сентябрдаги конуни // http://lex.uz.

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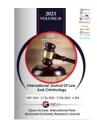












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December 9, 1992, and adopted the Law on Guarantees of Children's Rights on January 7, 2008 in order to implement the provisions of this important international document into our national legislation.

In Article 10 of the Law, the state ensures the privacy of the child's identity, home, and correspondence, and protects the child from all forms of exploitation and abuse, including physical, mental, and sexual abuse, torture, or other cruel, rude, or degrading treatment. It was established that protection from sexual harassment, involvement in crimes and anti-social acts will be carried out 14 .

In order to further strengthen the guarantee of children's rights, on April 22, 2019, the position of the deputy human rights representative (ombudsman) of the Oliy Majlis of the Republic of Uzbekistan - Child Rights Representative and his regional representatives were introduced.

It should be noted that the institutional and legal foundations of reliable protection of children's rights, freedoms and legal interests are gradually being improved in our country. In the development of laws, priority is given to compliance with the Constitution and laws of the Republic of Uzbekistan, generally recognized principles and norms of international law on human rights.

Amendments and additions were made to some legal documents regarding the guarantee of children's rights. These are the Family Code of the Republic of Uzbekistan, the Code of Administrative Responsibility, the Criminal Code, the Law of the Republic of Uzbekistan "On Guarantees of Children's Rights", the Law "On Guardianship and Sponsorship", the Law "On State Policy Regarding Youth", the Law "On Education" The law and other legal documents are being improved.

In particular, in order to increase the protection of minors from sexual assaults, Article 128 of the Criminal Code of the Republic of Uzbekistan dated December 7, 2021, which states responsibility for sexual intercourse with a person under the age of six, has been supplemented with a new 2 part, according to which these actions are the giving of material values or property interest, perpetration by doing it was defined as an aggravating circumstance of responsibility.

With this Law, Article 1281 of the Criminal Code was added, and liability was established for sexual intercourse with a person between sixteen and eighteen years of age by giving material values or obtaining a property interest.

It should be noted that with this law, in order to strengthen the humanity of minors, the age of criminal prosecution was changed from thirteen to fourteen years, and accordingly, the subject of the crime of intentional homicide in the second part of Article 97 was set at 14 years old.

It is known that Article 107 of the Code of Criminal Procedure of the Republic of Uzbekistan states that the total duration of the interrogation should not exceed eight hours in one day, and the one-hour break for rest and meals is not included in this count. By the Law of the Republic of Uzbekistan dated December 7, 2021, Article 121 of the Civil Code (Specific aspects of questioning a minor witness or victim) was supplemented with the fourth part. it was determined that it should not exceed four hours.

Journal of Advanced Science and Technology Vol. 29, No. 3, (2020), p. 3962.

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¹⁴S.S.Niyozova. Prevention of Crime in the Family and the Role of Victimology in the Republic of Uzbekistan. International

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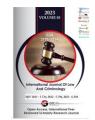
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CONCLUSION

In conclusion, the gradual improvement of the system of guaranteeing children's rights is aimed at effective protection of the rights and legal interests of minors in our country and the harmonization of national legislation with international standards.

REFERNCES

- Address of the President of the Republic of Uzbekistan Shavkat Mirziyoyev to the Oliy Majlis and the people of Uzbekistan. December 20, 2022// People's word. December 21, 2022.
- 2. President of the Republic of Uzbekistan Shavkat Mirziyoyev delivered a speech in Uzbek at the 75th session of the United Nations General Assembly.// "Gazeta.uz" presented the main thoughts of the president..
- 3. «On Approval of the National Strategy of the Republic of Uzbekistan on Human Rights» Decree of the President of the Republic of Uzbekistan dated 22.06.2020 No. PF-6012 // National database documents, 23.06.2020, legal No. 06/20/6012/0953;
- 4. Convention "On the rights of the child". The Republic of Uzbekistan acceded to this Convention in accordance with the Decision of the Supreme Council of the Republic of Uzbekistan dated December 9, 1992 No. 757-XII "On Accession to the Convention on the Rights of the Child".
- 5. Law of the Republic of Uzbekistan "On guarantees of children's rights", dated 07.01.2008 No. ORQ-139 // "Khalk sozi" January 8, 2008, "Collection of legal documents of the Republic of Uzbekistan", 2008, No. 1-2, Article 1.
- 6. Criminal Code of the Republic of Uzbekistan. T.: "legal literature publish", 2020.

- 7. Code of Administrative Responsibility of the Republic of Uzbekistan - T.: "legal literature publish", 2020.
- 8. Article 1251 was introduced on the basis of the Law of the Republic of Uzbekistan No. ORQ-352 of April 30, 2013 — NGO of the Republic of Uzbekistan, 2013, No. 18, Article 233)
- 9. Article 128 is supplemented by the second part based on the Law of the Republic of Uzbekistan No. ORQ-735 of December 7, 2021 — National database of legislative information, 07.12.2021, No. 03/21/735/1141)
- 10. Article 1281 was introduced on the basis of the Law of the Republic of Uzbekistan No. ORQ-673 of February 12, 2021 — National database of legal documents, 02/13/2021, No. 03/21/673/0112)
- 11. Article 121 is supplemented by the second, third and fourth parts based on the Law of the Republic of Uzbekistan dated December 7, 2021 No. O'RQ-735 — National database of legislative information, 07.12.2021, No. 03/21/735/1141)
- 12. Arzymbetov M.U. Pravovye voprosy sovershenstvovaniya ugolovnogo zakonodatelstva o prestupleniyax, svyazannyx s obychayami i traditsiyami (na materialax Republic Karakalpakstan). (Monograph). - T.: 1996. - 7 p.l.
 - 13. Payzullaev K.P. Juridicheskaya kriminologicheskaya charakteristika lichnosti prestupnika, sovershivshego seksualnoe nasilie protiv nesovershennoletnix. // J. State and law. -2003. - No. 3. - S. 49-51.
 - 14. Rustambaev M.Kh. Prestupleniya protiv lichnosti. Uchebnoe posobie. - T.: "Eldinur", 1998. - 181 p.
 - **15.** Tahirov F. Otgranichenie prestupleniy, predusmotrennyx statyami 118, 119 UK RUz ot razvratnyx deystviy v otnosheniy litsa, ne dostigshego 16 let. // J. Vestnik Karakalpakskogo Otdeleniya Akademii nauk Respubliki Uzbekistan, Nukus. - 2002. - No. 1-2. - S. 81-83.

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SJIF IMPACT FACTOR (2021: 5.705) (2022: 5.705) (2023: 6.584)

OCLC - 1121105677











Publisher: Oscar Publishing Services

- 16. F.Takhirov. The basis of the qualification of sex crimes. Monograph. / Responsible editor: Ph.D., prof. M.H. Rustamboev - T.: TDYul, 2006.
- 17. Khalikov A. Otvetstvennost za posyagatelstvo na nesovershennoletnix. interesy Nukus: Karakalpakstan, 1983.
- 18. Yakubov A.S. Ugolovno-pravovye mery borby s vovlecheniem nesovershennoletnix v pyanstvo i upotreblenie narcoticheskikh sredstv. - T.: VSh MVD, 1992.
- 19. Gadjieva A.A. Nesovershennoletnie poterpevshie i problemy ix ugolovno-pravovoy okhrany // Problemy prestupnosti nesovershennoletnix v Respublike Dagestan. Sbornik nauchnykh trudov. Makhachkala: Izd-vo Dag. un-ta, 2003. - S. 53-58
- 20. Zubkova V.I. Otvetstvennost za prestupleniya protiv lichnosti po zakonodatelstvu Rossii. - M.: "Norma", 2005. - 256 p.
- 21. Kondrashova T.V. Problemy criminal liability for sexual misconduct, health, sexual freedom and sexual neprikosnovennosti. – Yekaterinburg: 2000. - 239 p.
- **22.** Kurbanyazov V.D. Nesovershennoletnie poterpevshie v ugolovnom prave: problemy opredeleniya terminologicheskogo Akademicheskiy vestnik TGAMEUP. - Tyumen: TGAMEUP, 2012, No. 1 (19). - S. 237-238.
- 23. S.S.Niyozova. Prevention of Crime in the Family and the Role of Victimology in the Republic of Uzbekistan. International Journal of Advanced Science and Technology Vol. 29, No. 3, (2020), p. 3962.
- 24. Niyozova Salomat Saparovna. Strong Emotional Arousal (Effect) As A Criminal Law Norm. The American Journal of Political Science Law and Criminology (ISSN – 2693-0803) Published: March 31, Pages: 96-102 Doi:https://doi.org/10.37547/tajpslc/Volume 03 Issue p. 03-15.



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